

Notice of Allowability

Application No.

09/715,876

Examiner

S. Devi, Ph.D.

Applicant(s)

EDWARDS ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' amendment filed 12/29/05.
2. ☒ The allowed claim(s) ~~is/are~~ 13-16, now renumbered as claims 1-4 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

ATTACHMENT TO NOTICE OF ALLOWABILITY

Applicants' Amendment

- 1) Acknowledgment is made of Applicants' amendment filed 12/29/05 in response to the non-final Office Action mailed 09/20/05.

Status of Claims

- 2) Claims 1, 3 and 9-12 have been canceled via the amendment filed 12/29/05.
New claims 13-16 have been added via the amendment filed 12/29/05.
Claims 13-16 are pending and are under examination.

Rejection(s) Moot

- 3) The rejection of claims 1, 3 and 9-12 made in paragraph 14 of the Office Action mailed 09/20/05 under 35 U.S.C § 112, second paragraph, as being indefinite, is moot in light of Applicants' cancellation of the claims.
- 4) The rejection of claims 1 and 3 made in paragraph 15 of the Office Action mailed 09/20/05 under 35 U.S.C § 102(b) as being anticipated by Kraus *et al.* (*J. Immunol.* 139: 3084-3090, 1987), is moot in light of Applicants' cancellation of the claims.
- 5) The rejection of claims 1, 3, 10 and 11 made in paragraph 16 of the Office Action mailed 09/20/05 under 35 U.S.C § 102(b) as being anticipated by Hoyer *et al.* (*J. Bacteriol.* 180: 5334-5343, October 1998, already of record) (Hoyer *et al.*, 1998), is moot in light of Applicants' cancellation of the claims.

Remarks

- 6) Claims 13-16, now renumbered as claims 1-4 respectively, are allowed. The new claims have descriptive support in canceled claims 1, 3 and 9-12, third full paragraph on page 18, first full paragraph on page 14, and the full paragraph on page 20 of the specification, as originally filed.
- 7) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Fax number for

submission of amendments, responses or papers is (571) 273-8300.

8) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

February, 2006


S. DEVI, PH.D.
PRIMARY EXAMINER